

**To: Communities, Housing and Planning Policy Board**

**On: 27 October 2020**

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**Report by: Director of Communities, Housing and Planning**

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**Heading: Renfrewshire Local Development Plan Proposed Plan Examination  
Update and Technical Consultation on Proposed Policy  
Amendments to Scottish Planning Policy and Housing**

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## **1. Summary**

- 1.1 This report provides an update on the formal examination which is being carried out by Reporters appointed by the Scottish Ministers in relation to the Renfrewshire Local Development Plan Proposed Plan which commenced on 12 May 2020.
- 1.2 The report also highlights a Scottish Government consultation on proposed changes to Scottish Planning Policy and Housing and the response to the consultation issued on behalf of all eight Local Authorities in Clydeplan area attached at appendix 1.
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## **2. Recommendations**

- 2.1 It is recommended that the Board:
- (i) notes progress being made into the Examination of the Renfrewshire Local Development Plan Proposed Plan; and
  - (ii) notes the response submitted by the Clydeplan Joint Committee to the Scottish Planning Policy and Housing consultation.
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### **3. Examination Update**

- 3.1. The Renfrewshire Local Development Plan Proposed Plan (2019) was submitted to the Scottish Ministers on 31 January 2020 and the Examination into the Plan commenced on 12 May 2020.
- 3.2. Four Reporters have been appointed to examine the Proposed Plan. Officers are assisting the Reporters by providing further information/clarification, when required, to support the Examination into the Plan. It is anticipated that the Examination process will continue until early 2021 before the Examination into the Plan is concluded.
- 3.3. In relation to the further information requests and clarification sought by the Reporters, this has primarily been in connection with housing land supply, affordable housing and developer contributions. The Reporters did confirm recently that it was not envisaged that any oral hearings will be required. However, the Reporters will review this position once all responses are received to the further information requests dealing with housing land supply.

### **4. Court of Session Decisions**

- 4.1. Since the commencement of the Examination into the Renfrewshire Local Development Plan Proposed Plan, the Court of Session has issued two significant decisions in relation to Housing Land Supply in Inverclyde Council which has potential implications for Development Plans across Scotland.
- 4.2. The first decision was issued on 3 June 2020 in relation to a planning application at Quarriers Village, Kilmacolm by Gladman Developments Limited. The second decision was issued on the 22 July 2020 in relation to the decision of Inverclyde Council to adopt their Local Development Plan following the Examination of their Proposed Plan.
- 4.3. In the first decision the Courts provided clear guidance that there was a shortfall in the effective Housing Land Supply in Inverclyde and approving a housing development in the green belt would make a contribution to the delivery of sustainable development.
- 4.4. In the second decision by the Courts, the entire section related to Housing in Inverclyde's Local Development Plan was quashed when a consortium of housing developers successfully challenged the methodology and calculation of the authority's Housing Land Supply as set out in its Plan.
- 4.5. The Court's judgement highlights that there are clear differences between the Scottish Government, the development industry, Local Authorities and the Courts interpretation of Scottish Planning Policy and in particular the elements related to housing and its application in determining individual planning applications and formulating Development Plans.

- 4.6. In both decisions, the Reporters of the Scottish Government were considered to have erred in their judgment of Housing Land Supply. Both decisions require to be considered by the appointed Reporters in the Examination of the Renfrewshire Local Development Plan.
- 4.7. Officers have considered the potential impact of these decisions and have provided additional information to the Reporters to further demonstrate that as currently set out in the Renfrewshire Local Development Plan Proposed Plan there is an adequate supply of housing land identified to meet need and demand across Renfrewshire.

## **5. Scottish Planning Policy Consultation**

- 5.1 The Scottish Government have responded to the recent Court of Session decisions and are consulting on proposals for interim amendments to Scottish Planning Policy and Housing to ensure that the policy is clear and can be more easily and consistently applied in practice.
- 5.2 The Scottish Government sets out the continued commitment to a plan-led planning system. The proposed changes to Scottish Planning Policy and Housing seek to:
- support a plan-led approach to decision-making and maintain the legal status of the Development Plan as a basis for decisions in all cases;
  - remove the presumption in favour of development that contributes to sustainable development from Scottish Planning Policy as the interpretation of 'sustainable development' has given rise for conflict with a plan-led approach;
  - provide a clearer basis for decisions on applications for housing on sites that have not been allocated in the Local Development Plan where there is a shortfall in the housing land supply; and
  - clarifying what is meant by a five-year effective housing land supply.
- 5.3 Officers have worked closely with the other seven local authorities in the Clydeplan area preparing a collective response which was submitted to the Scottish Government before the consultation deadline on 9 October 2020.

## **6. Next Steps**

- 6.1 Updates on the Renfrewshire Local Development Plan Proposed Plan will be presented to the Communities, Housing and Planning Policy Board as and when required throughout the Examination process.
- 6.2 An update will be provided to the Communities, Housing and Planning Policy Board when changes to Scottish Planning Policy and Housing are finalised.
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## Implications of the Report

1. **Financial** - None
  2. **HR & Organisational Development** - None
  3. **Community/Council Planning** – The Development Plan is a key document in establishing a land use framework to ensure that the right development happens in the right places that will benefit our communities, safeguard our environment and well as our natural, built and cultural heritage in Renfrewshire.
  4. **Legal** - None
  5. **Property/Assets** - None
  6. **Information Technology** - None
  7. **Equality & Human Rights** -
    - (a) The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.
  8. **Health & Safety** - None
  9. **Procurement** - None
  10. **Risk** - None
  11. **Privacy Impact** – None
  12. **COSLA Policy Position** - None
  13. **Climate Risk** – N/A
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## List of Background Papers

- (a) None
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**The Scottish Planning Policy and Housing  
Technical Consultation On Proposed Policy Amendments Overview  
Proposed Clydeplan Response**

1. Covid 19 has served to highlight the importance of the connections between health and the quality of living environments and this is where our profession's endeavours must be squarely focused. The requirement for an immediate response to the recent Court of Session decision, ([2020] CSIH 28, XA104/19)<sup>1</sup> is understood, however noting that these proposals are "interim" the proposed SPP amendments could and should go further and Clydeplan will continue to engage with the Scottish Government to assist in evolving national planning policy which is to become embedded in NPF4.
2. Clydeplan and its constituent authorities have been dismayed at the increasingly litigious nature of planning disputes relating to housing developments which consume scarce resources that could better be utilised in positively supporting the creation of great places to live. Perceived policy loopholes are skewing some market led behaviours which in turn may be resulting in some poor planning decisions that are not consistent with the intentions of SPP and the plan-led system. Further policy clarifications and simplifications are encouraged and the proposed amendments, which assist in that regard, are therefore strongly supported.
3. Further detailed comments now follow.

**Question 1: What is your view on our proposal to remove 'the presumption' from the SPP, through the changes set out?**

4. The proposal to remove 'the presumption' from the SPP as set out, for the reasons provided by Scottish Government, is firmly supported.
5. The proposed amendments should not result in a reduction in approvals of proposals that contribute to sustainable development and add clarity as to how proposals are to be assessed. The vast majority of applications for development are approved and are assessed on the principal policies in SPP on Sustainability and Placemaking, including the economic, environmental and social principles set out at paragraph 29 of SPP, which are reflected within Clydeplan and Local Development Plans.
6. The challenge considered in the recent Court of Session decision, demonstrates that the terms of the presumption in favour of sustainable development where plans are out-of-date, was increasingly being interpreted and used in a manner that generally militates against the primacy of the development plan and decisions based on "balanced planning judgment".
7. Clydeplan was approved by Ministers in July 2017 and will be 5 years old in July 2022. Delays in NPF4 preparation are having knock on delays in the production of a Regional Spatial Strategy however this proposed amendment to SPP will ensure that Clydeplan, and the Local Development Plans of the eight constituent authorities, remain relevant in the determination of planning applications.

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<sup>1</sup> <https://www.scotcourts.gov.uk/docs/default-source/cos-general-docs/pdf-docs-for-opinions/2020csih28.pdf?sfvrsn=0>

**Question 2: What is your view on the proposed changes set out and our aim of clarifying the definition of the 5 year effective housing land supply to reflect the currently exceptional market circumstances?**

8. The proposal to clarify Paragraph 123 and the glossary definitions of effective and established housing land supply, for the reasons provided by Scottish Government is strongly supported.
9. The circumstances of Covid-19 and dramatic impacts particularly on *market led* housing delivery, have served to throw into focus the distinction between available housing land and the rate at which it is delivered. The term “5 year effective land supply” has often been utilised in a manner that conflates these two separate matters: available land and the rate of its build. This distinction is relevant irrespective of current exceptional circumstances.
10. In the Clydeplan area, the Plan’s strategy to deliver a compact city model, (to re-densify the urban area; to regenerate whilst addressing vacant and derelict land and buildings; and to reduce the need for travel), remains highly relevant post pandemic outbreak, in addressing the climate, health and economic emergencies. There is a very significant land supply including large scale community growth and regeneration areas and a mixture of brownfield and greenfield opportunities, many of which are currently being built out. Whilst the legacy of urban brownfield sites has its challenges, the delivery of these sites and locations will assist in creating a successful sustainable city region and the fact of slower delivery rates, should not be used as grounds for releasing sites in locations that detract from Clydeplan’s strategic aims.
11. What instead must happen, is continued public policy focus on the delivery of difficult locations and on regeneration activities including through City Deal investment. Related to this, it is appropriate to highlight that delivery of public sector led housing, an important part of the delivery solution, is subject to entirely different delivery drivers from market led development which dictate different rates of build. The distinctions and clarifications in the delivery roles between the private and public sectors should therefore be reflected in Policy.
12. Clydeplan would wish to offer to work with Scottish Government in co-producing any new Housing Land Audit Guidance and would encourage priority to be given to the development of the audit on a national digital platform as part of the activities of the Digital Task Force.

**Question 3: What is your view on the proposed changes to paragraph 125, including (a) the proposed calculation to establish the scale of the 5 year effective land supply in relation to alternatives and (b) the proposed approach to assessing proposals where a shortfall emerges?**

13. The proposals to clarify Paragraph 125 and related calculations of land supply, for the reasons provided by Scottish Government are strongly supported.

**Question 3(a)**

14. The different methodologies for the calculation of land supply employed by various stakeholders at Development Plan Examinations, Planning Appeals and in court has consumed scarce resources within planning services and has caused significant debate and confusion, not least of all for the general public. The revisions and suggested methodology for the calculation of a five year effective land supply is largely in line with the Scottish Government and HoPS calculation within the Planning Performance Framework and is considered to be the most straightforward and robust method of calculating a five year effective land supply.

15. The clarification that the ***housing land requirement*** is to be utilised at the point of LDP preparation and that the ***housing supply target*** is to be applied in the assessment of planning applications and appeals, is supported and concurs with how these matters are applied in the Clydeplan area.
16. The clarification is supported that the residual or compound method that takes account of completions, should not be used in the calculation of housing land and that an annualised calculation based on a more steady, average rate of build-out of the land contained within the development plan, is to be utilised.

### **Question 3(b)**

17. The proposed approach to assessing proposals where a shortfall in the five year effective land supply emerges, is supported as the approach encourages a “balanced planning judgment” based on the full policy context provided by SPP, Clydeplan and the relevant Local Development Plan.
18. The proposed text of paragraph 125, requires to be amended to reflect that SDPs are still relevant in some local authority areas and in the Clydeplan area until the approval of NPF4, and the suggested wording is as follows with additions underlined in bold:
  - The extent of the forward 5 year effective land supply should be calculated by dividing the housing supply target set out in the adopted local development plan **or approved Strategic Development Plan if relevant**, by the plan period (to identify an annual figure) and multiplying that figure by 5.
19. The specific calculation set out in the annual Planning Performance Frameworks could usefully be set out in policy and the wording of paragraph 125 could be further amended to reflect that approach. Clydeplan is contributing to the Heads of Planning Scotland response to provide the detail and further clarity required.

### **Question 3 - Further Comment**

20. Assuming that these proposals gain ministerial approval, the implications of the proposed Policy changes require to be interpreted for the relevant Clydeplan schedules on Housing Land Supply Targets and Requirements, and given the ministerial approval of the Strategic Development Plan for this area, Clydeplan wishes to work with the Scottish Government in this activity, to provide the clarity being sought.
21. Finally, Clydeplan would wish to emphasise support for these proposals which aim to reduce time and energy spent on debating numbers to enable more focus on the creation of high quality, healthy and sustainable places.

***Question 4: Do you agree that the proposed amendments will not directly impact on other (non-housing) types of development? If not, please provide evidence to support your view.***

22. Clydeplan are satisfied that the proposed amendments will not directly impact on other types of development and reiterate the point made earlier that national statistics confirm that the vast majority of applications for development are approved based on the principal policies in SPP on Sustainability and Placemaking, including the economic, environmental and social principles set out at paragraph 29, as reflected within Clydeplan and the Local Development Plans of the eight authorities.

***Question 5: Do you agree that fuller impact assessments are not required? If not, please provide evidence to support your view.***

23. Clydeplan agree with the Scottish Government that there is no need for further impact assessments as the changes to SPP are not significant enough to trigger further assessments or alter the original impacts assessments undertaken on SPP which was published in 2014.